

Minutes of Land Use, Parks and Environment Committee
Tuesday, July 21, 2009

Chair Fritz Ruf called the meeting to order at 8:30 a.m. and led the Committee in the Pledge of Allegiance.

Committee Present: Supervisors Fritz Ruf (Chair), James Jeskewitz, Walter Kolb, Ted Rolfs (arrived at 8:43 a.m.), Janel Brandtjen, Gilbert Yerke, Rob Hutton (arrived at 8:39 a.m.).

Also Present: Chief of Staff Mark Mader, Legislative Associate Karen Phillips, Planning and Zoning Manager Dick Mace, Landscape Architect Pam Linn, Land Resources Manager Perry Lindquist, Parks and Land Use Director Dale Shaver, Citizen Ron Rydburg.

Approve Minutes of June 16, 2009

MOTION: Jeskewitz moved, second by Kolb, to approve the minutes of June 16, 2009.

Motion carried: 6-0

Public Comment

Ron Rydburg, citizen of the City of Waukesha, voice his concerns over the flooding of the Green Trail near the dog park at Minooka Park. He stated that he is a user of the park year round. He has contacted the Department of Parks and Land Use staff, but has received no response to date. Rydburg stated he would like to see serious recognition of this issue and some definite attention given to his concerns.

Hutton arrived at 8:39 a.m.

Mader stated he left a message for Duane Grimm, who may have more information on this issue; however, he noted that Grimm was presently out of the office, on vacation. Ruf assured Rydburg that the issue will be referred to the appropriate people and someone would get back to him.

Rolfs arrived at 8:43 a.m.

Executive Committee Report of July 20, 2009

Ruf reviewed the items discussed at the Executive Committee meeting:

- Ordinance regarding CDBG – Emergency Assistance Program from the Wisconsin Department of Commerce
- Resolution to approve West Waukesha Bypass Memorandum of Understanding and associated Ordinance to amend the Capital Plan and modify the Capital Budget (This issue was further discussed, including the Highway 74 in Menomonee Falls)
- Appointments (4)
- Internal Audit Plan Update

Discuss and Consider Ordinance 164-O-027: Amend The District Zoning Map Of The Town Of Eagle Zoning Ordinance By Rezoning Certain Lands Located In Part Of The NE ¼ Of Section 35, T5N, R17E, Town Of Eagle, Waukesha County, Wisconsin, From The C-1 Conservancy District To The A-2 Rural Home And C-1 Conservancy Districts (ZT-1689)

Mace pointed out the location of the 12.55 acre property on the aerial photograph, on the west end of Eagle Springs Lake in the Town of Eagle. The property is surrounded by either open water or wetlands. The existing private driveway has been in place since prior to 1941. The existing residence is located on the upland portion of this property. The petitioners plan to construct a new residence on

the property to replace the existing residence, in the approximate same location. The new house was approved by the Board of Adjustment (BOA); two variances were approved on the property recently, one for conservancy/wetland set back requirements and one for a 75' floodplain and wetland setback requirement. Mace further discussed the floodplain map and clarified what areas are conservancy. He stated the area changing from conservancy to upland zoning consists of about 2/3 of an acre.

Rolfs asked if there had always been a year-round home on this property. Mace was unsure; Yerke stated it was basically a summer cottage. Ruf explained that there has been a structure there since at least the 1940's. Rolfs asked if the new house would be an improvement – an expansion of use? Mace answered yes, it would be a larger home. Rolfs questioned the increase in size. Mace stated he did not have a copy of the BOA action in hand, but he guesstimated that BOA did limit the footprint of the house to approximately 1600-1800 square feet. Rolfs continued to express his concerns, stating that this property should never have been built upon to begin with. If there was not already a house there, it would not be allowed. Now the size of the home will be increasing in size, and expanding use into a year-round home. Ruf explained it has already been improved once before; whether it is a year-round home is not an issue from the County's perspective.

Rolfs opined that in the future, such property should revert back to conservancy – if building expansion is continually allowed, this would never happen. Ruf expressed his disagreement with Rolfs's perspective, citing numerous examples of similar types of improvements allowed in other areas of the County. People have invested in their properties and want to improve them. Yerke agreed with Rolfs in that if there were not an existing house, this would not be a buildable site because of the accessibility issues; however since the size of the structure will be limited and the Town has approved it, he would support it also. Yerke provided history of the property, originally owned by the owners of Eagle Springs Golf Course.

Mace offered to amend the ordinance to include the restrictions on the size of the home as set by the BOA; the Committee members agreed that would not be necessary.

MOTION: Kolb moved, second by Brandtjen, to approve Ordinance 164-O-027.

Motion carried: 7-0.

Discuss and Consider Ordinance 164-O-028: Amend The District Zoning Map Of The Waukesha County Shoreland And Floodland Protection Ordinance And The Waukesha County Zoning Code, For The Town Of Genesee By Conditionally Rezoning Certain Lands Located In Part Of The SW ¼ And SE ¼ Of Section 12, T6N, R18E, Town Of Genesee, From The B-3 General Business, A-2 Rural Home, A-B Agricultural Business And The A-E Exclusive Agricultural Conservancy Districts To The B-3 General Business And The C-1 Conservancy Districts And Revisions To Previously Imposed Conditions Of Approval Under Enrolled Ordinance No. 163-22 (CZ-0819A) To Allow Several Business Uses On The Property (SCZ-0819B)

Mace explained that rezoning proposals on this property have been brought before the County Board several times before. He explained the location of the 15.72 acre parcel in the Town of Genesee. Structures on the property include the main residence, two duplexes and a barn. The owner is proposing to build some mini-warehouses on the property. As a condition, the two duplexes would have to be torn down within five years; the house would remain. Mace explained there were some violations of the conditions of a previous rezone relating to business operations, but the petitioner has been very cooperative and all of the violations have been resolved. The Town and County's new Land Use Plan identifies this as a commercial area. There are some wetland/conservancy areas on the property, which Mace pointed out on the map. The petitioner understands that all lands delineated as

wetland area are required to be protected and will be rezoned through this process. The proposed rezoning with conditions would allow the continued commercial use of the property with additional flexibility for future tenants.

MOTION: Jeskewitz moved, second by Hutton, to approve Ordinance 164-O-028.
Motion carried: 7-0.

Discuss and Consider Ordinance 164-O-026: Wissner / Craig Property Acquisition

Linn explained the location of this property in the Town of Vernon, consisting of approximately 229 acres, on an aerial map. The acquisition of this entire parcel was identified in the 2009 Park and Open Space Plan for preservation. She explained this ordinance which authorizes the department to use Tarmann Parkland Acquisition funds to purchase the property for \$755,000 (\$3,297 per acre). The department has received a letter from the DNR indicating they may be eligible for a stewardship grant in the future to partially offset the cost.

Linn further explained this limited access property connects to property purchased by Waukesha County a few years ago. She reviewed the zoning designations, including 211 acres as C-1 and 15 acres as Agriculture.

Ruf asked why the Reese property was not purchased. Linn explained the owners had some financial issues with their subdivision development. She said the County still hopes to purchase the property. As a result, that appropriation was included in the carryover process for 2008 to 2009.

Brandtjen asked for clarification of the funding. Linn said the net cost to the county would be \$423,000. The reimbursement from the stewardship grant would be \$332,000 (about 40% of the purchase price is traditionally received). Shaver added that although the grant is not guaranteed, we have never been refused in the past. Brandtjen also asked for what purpose would these wetlands be used long term. Shaver stated the We Energies right-of-way eventually would be a trail corridor from Mukwonago to Muskego. It would be used for a bike trail only.

Rolfs asked how the stewardship regulations for hunting would be dealt with on this property. Shaver explained that when the stewardship law was reenacted, some language was put in mandating hunting, fishing or trapping unless certain criteria were met. Now, when the grant application is submitted, they must specify the current usage and future use plans. In this case, although there are some limited access issues, they will identify that eventually some of these properties would be opened up for hunting, but that would require the County Board to approve a code change.

Yerke asked what is this area being preserved for, as it is already conservancy. What could the landowner do on this property containing mainly wetlands? Shaver said there is an upland component to the property; theoretically there could be a subdivision put in the area. Shaver also clarified the limited access issues associated with this property.

Hutton expressed his concerns over the land acquisition. He discussed whether the County could place enough restrictions/stipulations on the property to afford it not to be developed versus acquiring the property. Hutton also inquired whether the wetland restrictions in place are reflected in the value of the acreage presently. Shaver stated that yes, the restrictions were considered in the value of the land. He further discussed the concept of the County restricting development through zoning code. Shaver said that in this case, they truly feel a portion of this property could be built upon. A person's ability to use their property should not be restricted if they have a right to use it for some purpose. Shaver explained putting such restrictions on a property owner would devalue the property. In this

case it is zoned conservancy; however, there is an upland component and a rezone could be requested.

Hutton asked how much of the property could be developed. After further discussion, it was estimated that perhaps about 30-50 of the 229 acres could be developed, including the upland conservancy district. Shaver explained that theoretically the owner could request a rezone for that portion because it could be developed at 1 per 5 acre density in the primary environmental corridor.

MOTION: Rolfs moved, second by Jeskewitz, to approve Ordinance 164-O-026.
Motion carried: 6-1 (Hutton).

Presentation: 2008 Flooding in Waukesha County

Lindquist gave a detailed PowerPoint presentation identifying areas that were severely affected by the 2008 flooding in Waukesha County. He covered topics including Types of Flooding (floodplain vs. floodway, ground water vs. floodwater and the high groundwater tables), the Watershed Protection Plan, and the Watersheds of Waukesha County, with photographs of the following areas:

- Pebble Creek Floodplain (Bridge at CTH TT South of MacArthur Road looking west.)
- Fox River (Barstow Bridge) in the City of Waukesha (Mapped Floodplain)
- Bark River (Town of Summit), Floodplain vs. Floodway: Mace said this area has been reanalyzed to remove some of the area from the floodway zoning as determined by FEMA in 2008

Ruf and Jeskewitz left at 10:11 a.m.

- Pewaukee Lake (Village of Pewaukee at Wisconsin Avenue)
- Phantom Lake Dam (Mukwonago)
- Genesee Lake Road
- Genesee Lakes Farms Subdivision – Lindquist stated the County issued an advisory to lot owners to obtain further evaluation from an engineer regarding structure of the basement with regard to the groundwater table.
- Country Bliss Subdivision

Hutton left at 10:37 a.m.

- Westshore Subdivision
- Sweetbriar Lane Subdivision

Motion: Brandtjen moved, second by Rolfs to adjourn at 10:47 a.m. Motion carried 4-0.

Respectfully submitted,

Jim Jeskewitz
Secretary